

1 TIMOTHY S. LEIMAN, Ill. Bar No. 6270153

2 Email: leimant@sec.gov

3 PAUL M. G. HELMS, Ill. Bar No. 6291623

4 Email: helmsp@sec.gov

5 PETER SENECHALLE, Ill. Bar No. 6300822

6 Email: senechalp@sec.gov

7 Attorneys for Plaintiff

8 United States Securities and Exchange Commission

9 175 West Jackson Boulevard, Suite 900

10 Chicago, Illinois 60604

11 Telephone: (312) 353-7390

12 Facsimile: (312) 353-7398

13 LOCAL COUNSEL

14 Lynn M. Dean, Cal. Bar No. 205562

15 Email: deanl@sec.gov

16 United States Securities and Exchange Commission

17 444 S. Flower Street, Suite 900

18 Los Angeles, California 90071

19 Telephone: (323) 965-3998

20 Facsimile: (213) 443-1904

21 **UNITED STATES DISTRICT COURT**  
22 **CENTRAL DISTRICT OF CALIFORNIA**  
23 **WESTERN DIVISION**

24 SECURITIES AND EXCHANGE  
25 COMMISSION,

26 Plaintiff,

27 vs.

28 JAMMIN' JAVA CORP., dba MARLEY  
COFFEE, SHANE G. WHITTLE,  
WAYNE S. P. WEAVER, MICHAEL K.  
SUN, RENE BERLINGER, STEPHEN B.  
WHEATLEY, KEVIN P. MILLER,  
MOHAMMED A. AL-BARWANI,  
ALEXANDER J. HUNTER, and  
THOMAS E. HUNTER,

Defendants.

Case No. 2:15-CV-08921

**JOINT REQUEST TO RESCHEDULE  
SUMMARY JUDGMENT HEARING**

Hon. Stephen V. Wilson

Complaint Filed: Nov. 17, 2015

Current Summary Judgment Hearing

Date: May 8, 2017

Proposed Summary Judgment Hearing

Date: May 22, 2017

1 Plaintiff, the U.S. Securities and Exchange Commission (the “SEC” or  
2 “Commission”) and Defendant Wayne Weaver (collectively, the “Parties”)  
3 respectfully and jointly request that this Court enter an order rescheduling the  
4 May 8, 2017 hearing on the SEC’s Motion for Summary Judgment (Dkt.  
5 #171) to May 22, 2017. The SEC inadvertently selected May 8 as the hearing  
6 date which is before the SEC’s Reply Brief is due. Rescheduling the hearing  
7 for May 22 will allow the Parties and the Court to consider all relevant  
8 pleadings before a hearing is held.  
9

10 1. On November 17, 2015, the SEC filed a complaint against  
11 Jammin Java, Corp. (“Jammin Java”) and nine individuals – including Defendant  
12 Wayne Weaver – for violations of the federal securities laws in connection with (a)  
13 an alleged fraudulent scheme to manipulate the price of Jammin Java’s common  
14 stock and (b) the alleged unregistered sale of approximately 16 million shares of  
15 Jammin Java stock to the public. (Dkt. #1.) On August 8, 2016, the SEC filed an  
16 Amended Complaint against the same Defendants. (Dkt. #121.)

17 2. Defendants Jammin Java, Stephen Wheatley, Shane Whittle,  
18 Alexander Hunter and Thomas Hunter have settled with the Commission and the  
19 Court has entered Final Judgment against them. (Dkt. # 109, 110, 151, 156, and  
20 176.) In addition, the Commission has approved settlements with Defendants Rene  
21 Berlinger, Michael Sun, Mohammed Al-Barwani, and Kevin Miller and a Motion  
22 for Judgment as to those Defendants is currently pending. (Dkt. #178.) If the Court  
23 enters judgments as to those Defendants, Wayne Weaver will be the only  
24 Defendant remaining in this case.

25 3. On March 31, 2017, the SEC filed a Motion for Summary Judgment  
26 against Defendant Weaver. (Dkt. #171.) Weaver responded on April 21, 2017.  
27  
28

1 (Dkt. #177.) Under the current scheduling order (Dkt. #163), the SEC's Reply  
2 Brief will be due on May 11, 2017 (20 days after Weaver's response was filed).

3 4. When filing its motion, the SEC inadvertently selected a hearing date  
4 before the reply brief is due: May 8, 2017. The Parties, therefore, jointly request  
5 that the hearing date on the SEC's Motion be moved to May 22, 2017 so that the  
6 Parties and the Court have the benefit of all of the relevant filings before the  
7 hearing.

8 WHEREFORE, the SEC and Defendant Wayne Weaver respectfully and  
9 jointly request that the hearing currently scheduled for May 8, 2017 be rescheduled  
10 for May 22, 2017 at 1:30 pm.

11  
12 Dated: May 2, 2017

Respectfully submitted,

13 /s/ Timothy S. Leiman

14 Timothy S. Leiman  
15 U.S. Securities and Exchange Commission  
16 Chicago Regional Office  
17 175 W. Jackson Blvd., Suite 900  
18 Chicago, Illinois 60604  
19 Telephone: (312) 353-7390  
20 Fax: (312) 353-7398  
21 [leimant@sec.gov](mailto:leimant@sec.gov)

22 /s/ Marc S. Harris

23 **SCHEPER KIM & HARRIS LLP**

24 Marc S. Harris  
25 [mharris@scheperkim.com](mailto:mharris@scheperkim.com)  
26 Margaret E. Dayton  
27 [pdayton@scheperkim.com](mailto:pdayton@scheperkim.com)  
28 601 West Fifth Street, 12th Floor  
Los Angeles, California 90071-2025  
Telephone: (213) 613-4655  
Facsimile: (213) 613-4656  
*Attorneys for Defendant Wayne Weaver*

**CERTIFICATE OF SERVICE**

I, Timothy Leiman, hereby certify that – on May 2, 2017 – I have served the forgoing document on all counsel of record in this proceeding by filing it with the Court’s electronic filing system which automatically transmits a copy of the documents to the email addresses of all counsel who have appeared in this action.

**/s/Timothy S. Leiman**

Timothy S. Leiman

U.S. Securities and Exchange Commission

Chicago Regional Office

175 W. Jackson Blvd., Suite 900

Chicago, Illinois 60604

Telephone: (312) 353-7390

Fax: (312) 353-7398

[leimant@sec.gov](mailto:leimant@sec.gov)